

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  MIDAMERICAN ENERGY HOLDINGS COMPANY, MIDAMERICAN ENERGY COMPANY, TETON FORMATION L.L.C., and TETON ACQUISITION CORPORATION	DOCKET NO. SPU-99-32
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**ORDER ACCEPTING FILING, COMMENCING INVESTIGATION, REQUIRING  
ADDITIONAL INFORMATION, NOTICE OF HEARING, SETTING PROCEDURAL  
SCHEDULE, SETTING INTERVENTION DEADLINE, AND EXTENDING DEADLINE  
FOR ACTION**

(Issued December 16, 1999)

On November 12, 1999, MidAmerican Energy Holdings Company, MidAmerican Energy Company, Teton Formation L.L.C., and Teton Acquisition Corporation, hereinafter collectively referred to as Applicants, filed with the Utilities Board (Board) a proposal for reorganization pursuant to IOWA CODE §§ 476.76 and 476.77 (1999). Applicants propose a reorganization in which three to six investors will own all the equity shares of MidAmerican Energy Company's indirect parent, MidAmerican Energy Holdings Company. Currently, MidAmerican Energy Holdings Company has approximately 1,000 shareholders.

The Board has reviewed Applicants' filing and finds that it substantially complies with the filing requirements contained in IOWA ADMIN. CODE 199-32.4 (1999). Therefore, the Board will accept the filing. There are, however, certain

areas where the Board requires additional information to facilitate its review of the reorganization proposal. Applicants will be required to file the following additional information within 15 days from the date of this order:

1. A copy of the 1997 and 1998 annual reports for Berkshire Hathaway Inc. IOWA ADMIN. CODE 199-32.4(3)"e."
2. The current and proposed reorganization balance sheets for MidAmerican and Berkshire. IOWA ADMIN. CODE 199-32.4(3)"d."
3. Support for Exhibit PJG-5.

Pursuant to IOWA CODE § 476.77(2), the proposed merger shall be deemed to have been approved by operation of law unless disapproved by the Board. The statute also provides that the Board shall not disapprove a proposal for reorganization without providing for a hearing, which must be issued no later than 50 days after the proposal for reorganization has been filed. In furtherance of the investigation being conducted by the Board to review the reorganization proposal, the Board will set a date for hearing and establish a procedural schedule and deadline for intervention. The Board encourages all parties to file prefiled testimony pursuant to the schedule established. Prefiled testimony is useful to the Board and other parties in narrowing and focusing the issues and preparing for cross-examination at hearing.

IOWA CODE § 476.77(2) states that "[a] proposal for reorganization shall be deemed to have been approved unless the board disapproves the filing within ninety days after its filing." Pursuant to an amendment adopted in 1998, this section further

provides "[t]he board, for good cause shown, may extend the deadline for acting on an application for an additional period not to exceed ninety days."

On November 16, 1999, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed a request for a 90-day extension. Applicants filed a resistance to the request on November 19, 1999, and a reformatted response on November 22, 1999. Applicants and Consumer Advocate subsequently filed on November 23, 1999, a joint motion for procedural schedule. In that motion, the parties presented a proposed procedural schedule that would provide for a Board decision by the 90-day deadline, February 10, 2000.

The procedural schedule proposed by Applicants and Consumer Advocate is not acceptable because it only provides for two days between the filing of final testimony and hearing. This time is insufficient for the Board and its staff to evaluate the prefiled testimony and exhibits. As noted by Consumer Advocate in its motion for extension, this reorganization requires an investigation of the potential impacts of a publicly-traded corporation being taken private. This is an issue that has not been faced by this Board.

Applicants in their resistance to the extension request argued an extension cannot be based on mere speculation, uniqueness of issues, or convenience of parties. Applicants said the issues posed by this reorganization are in fact less complex than those in prior reorganizations because the only changes relate to the number of shareholders and composition of the board of directors.

This reorganization involves Iowa's largest investor-owned electric utility and, as such, this reorganization primarily impacts Iowa ratepayers. While Applicants point out that federal review of the reorganization has been "fast-tracked" by the Federal Energy Regulatory Commission, the Board does not believe this reorganization presents significant federal issues, such as anti-trust. The issues are largely within the purview of state regulatory commissions. From the Board's review of the filings to date, the Board believes the issues presented are of first impression worthy of careful review. Good cause for an extension has been established.

The question becomes one of how long an extension is required. This order will establish a procedural schedule and set a deadline for intervention. Pursuant to the suggestion contained in Applicants' and Consumer Advocate's joint motion, each party will have one additional round of testimony. As of this date, the issues that may be raised by intervening parties, other than Consumer Advocate, are completely unknown.

Because of the uncertainties surrounding the issues that may be raised, the Board will extend the deadline for an additional 90 days. However, based on its review to date, the Board does not believe it will require the full additional 90 days to complete its review and issue a decision. The procedural schedule will allow the Board to issue a decision on or before March 31, 1999. Barring unanticipated events, the Board fully intends to issue a decision on or before that date. If the reorganization is allowed to go forward, this time frame will allow Applicants to meet the proposed April closing deadline.

On November 30, 1999, Keith Meyer filed a petition to intervene. Applicants filed a response on December 3, 1999, and Consumer Advocate filed a response on December 7, 1999. Consumer Advocate did not object to the petition, noting that Mr. Meyer has previously expressed interests and positions different from Consumer Advocate.

Applicants objected to Mr. Meyer's intervention or, in the alternative, asked that Mr. Meyer be required to state in writing the precise nature of his interest in this proceeding. While Mr. Meyer's petition to intervene did not state his interest, as required by the rules, Applicants have some knowledge of Mr. Meyer's concerns because of his untimely intervention in a prior reorganization proceeding. The Board's decision denying that intervention is on appeal to the Iowa Supreme Court.

In addition, Mr. Meyer filed a reply on December 13, 1999, that clarified he was in fact a customer of MidAmerican and referred to prior Board dockets to specify his interests in this case. The Board will grant Mr. Meyer's petition to intervene. Mr. Meyer's request to represent himself pro se will be granted, but he will be expected to comply with the requirements of this procedural schedule and the Board's rules.

**IT IS THEREFORE ORDERED:**

1. The proposal for reorganization filed by MidAmerican Energy Holdings Company, MidAmerican Energy Company, Teton Formation L.L.C., and Teton Acquisition Corporation on November 12, 1999, is accepted as substantially complying with the filing requirements contained in IOWA ADMIN. CODE 199-32.4 (1999).

2. The Utilities Board will conduct an investigation, identified as Docket No. SPU-99-32, of the plan of reorganization filed by Applicants.

3. Applicants shall file the information identified within this order within 15 days from the date of this order.

4. The following procedural schedule is established:

a. Requests to intervene shall be filed on or before January 10, 2000.

b. Consumer Advocate and any intervenors shall file prepared direct testimony, with underlying workpapers and exhibits, on or before January 10, 2000. If a party references a data request in its prepared testimony, the data request shall be filed as an exhibit.

c. Applicants shall file their reply testimony, with underlying workpapers and exhibits, on or before January 18, 2000.

d. The parties shall file a joint statement of the issues on or before January 21, 2000.

e. A hearing shall be held beginning at 9 a.m. on February 16, 2000, for the purpose of receiving testimony and the cross-examination of all testimony. The hearing shall be held in the Iowa Utilities Board's Hearing Room, 350 Maple Street, Des Moines, Iowa. The parties shall appear one-half hour prior to the time of the hearing for the purpose of marking exhibits. Persons with disabilities requiring assistive services or devices to observe or

participate should contact the Utilities Board at (515) 281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

f. The parties may file simultaneous initial briefs on or before February 23, 2000.

g. All parties who filed initial briefs may file reply briefs on or before February 28, 2000.

5. In the absence of objection, all underlying workpapers shall become a part of the evidentiary record of these proceedings at the time the related testimony and exhibits are entered into the record.

6. In the absence of objection, all data requests and responses referred to in oral testimony or on cross-examination which have not been previously filed shall become a part of the evidentiary record of these proceedings. The party making reference to the data request shall file an original and six copies of the data request and response with the Board at the earliest possible time.

7. In the absence of objection, when the Board has called for further evidence on any issue and the evidence is filed after the close of the hearing, the evidentiary record will be reopened and the evidence will become part of the record five days after the evidence is filed with the Board. All evidence filed pursuant to this paragraph shall be filed no later than three days after the close of the hearing in this proceeding.

8. The petition to intervene filed by Keith Meyer is granted.

9. The joint motion for procedural schedule filed by Applicants and Consumer Advocate is denied, and the 90-day deadline for action is extended, for good cause, through May 10, 2000.

**UTILITIES BOARD**

/s/ Allan T. Thoms

/s/ Susan J. Frye

ATTEST:

/s/ Raymond K. Vawter, Jr.  
Executive Secretary

/s/ Diane Munns

Dated at Des Moines, Iowa, this 16<sup>th</sup> day of December, 1999.